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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,473

01/13/2006

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EXAMINER

SITTA, GRANT

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

10/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/564,473	Applicant(s) MURASE ET AL.	
	Examiner GRANT D. SITTA	Art Unit 2629	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 7-22.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Sumati Lefkowitz/
 Supervisory Patent Examiner, Art Unit 2629

/Grant D Sitta/
 Examiner, Art Unit 2629

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 10/13/2009 have been fully considered but they are not persuasive.

In response to applicant's argument that the Office Action fails to show the time periods for the alleged quiescent period of AAPA and lemoto as being one in the same (Remarks, pg 8, numeral 1), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Under these facts, AAPA discloses a quiescent period and discusses the draw backs of delay time associated with logic circuits. lemoto discloses a delay time stabilizing circuit with dummy pulse generating means in order to reduce fluctuations associated with a delay time. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate a dummy pulse generating means in order to provide for better accuracy independent of frequency fluctuations of an input signal (abstract).

Applicant contends lemoto fails to disclose the presence of a level shifter. However, Examiner is relying on AAPA to teach the presence of a level shifter (fig. 1 level shifter). Applicant further states, the Office Action fails to show how and why the skilled artisan would have considered any of the mix-signals TD3 of lemoto as including amplified gradation data. But, as stated above Examiner is relying on AAPA in view of lemoto. AAPA discloses all the claimed elements except for wherein output data during a quiescent period is dummy data. lemoto teaches a means of inserting dummy data when input data fluctuations associated with logic circuits (CMOS) (abstract), in other words, Examiner is relying on AAPA to teach amplified gradation data.

In response to Applicant's remarks that the Office Action fails to show the alleged output data of AAPA and lemoto being one in the same, please see the remarks above.

In response to applicant's argument that the Office Action fails to show where and how the level shift 1 of AAPA would have been integrated into the circuitry of lemoto, please see the remarks above. Examiner notes, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. The test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. It would have been obvious to one of ordinary skill to insert the teachings of lemoto and the dummy data into the teachings disclosed in AAPA to solve the same problems associated with delay times and logic circuits.

In response to Applicant's remarks that the Office Action fails to show where and how the output data would have been gradation data from AAPA in one instance and any of the mix-signals TD3 from lemoto in the next instance, especially when there is no disclose of time T2 of AAPA within lemoto, Please see the remarks above.

In response to Applicant's amendment changing claim dependency for claims 21 and 22, the claims would be rejected under the same rational as disclosed in the Final Office Action dated 8/20/2009.